




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TIMOTHY K. WEBB, Ed.D.
COMMISSIONER

MEMORANDUM

TO: Directors of Schools
Directors of Special Education
Elementary and Secondary Principals

FROM:  Joseph E. Fisher
Assistant Commissioner for Special Education

DATE: March 3, 2010

RE: IDEA School Health Services and School Nurse Services

The purpose of this memorandum is to clarify when school health and school nurse services should be included in an IEP as related services for children with disabilities pursuant to the IDEA.

The IDEA Regulations at 34 C.F.R. §300.34(a) provide that related services means services as are required to assist a child with a disability to benefit from special education. 34 C.F.R. §300.34(c)(13) provides that school health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. *School nurse services* are services provided by a qualified school nurse. *School health services* are services that may be provided by either a qualified school nurse or other qualified person.

The Comments to the IDEA Regulations at *Federal Register, Vol. 71, No. 156, Page 46574* provide additional guidance. The Comments provide that a child who is medically fragile and needs school health services or school nurse services in order to receive FAPE must be provided such services, as indicated in the child's IEP. The Comments further provide that the IEP Team is responsible for determining the services that are necessary for the child to receive FAPE. Finally, the comments specify that school health services and school nurse services are related services only to the extent that the services allow a child to benefit from special education and enable a child with a disability to receive FAPE.

Eligibility as a child with a disability pursuant to IDEA and state standards must be established prior to expenditure of IDEA Part B funds for implementation of school nurse or school health

services. Children with healthcare needs or medical conditions of a short duration, temporary nature, or medical conditions that require infrequent school nurse or school health services, and whose educational performance is not adversely affected by such healthcare needs or medical conditions, cannot be certified as eligible pursuant to IDEA and state standards for the purpose of accessing IDEA Part B funds to provide school nurse or school health services for such children.

Prior to including school nurse or school health services in an IEP, the IEP Team must determine that the child needs school nurse or school health services to benefit from his or her education and thereby receive FAPE. In making this determination, the IEP Team must consider the child's educational progress. A child with a healthcare need or medical impairment, who is making educational progress and is participating in the general education curriculum to the maximum extent appropriate, and whose healthcare need or medical condition is not affecting educational performance, will not require school nursing or school health services in order to receive FAPE.

Therefore, school nurse or school health services may be included as related services in an IEP only when it is clear that an IDEA eligible child needs the services to benefit from his or her education and thereby receive FAPE. School nurse or school health services cannot be included as related services in instances where an IDEA eligible child's healthcare needs or medical condition do not affect his or her educational performance or the receipt of FAPE.